

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0574P

Adjusted Gross Income Tax
Calendar Years 1994, 1995, 1996, and 1997

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in Indiana and was audited for calendar years 1995 through 1997. Taxpayer was previously audited in September 1994.

The audit resulted in assessments in 1995, 1996 and 1997 and a refund in 1994. Upon audit it was discovered that the taxpayer failed to include interest income from BA. The auditor removed the interest income from nonbusiness income. Taxpayer also made other errors that either resulted in a reduction or an assessment to its tax returns; i.e. property tax/contributions were not added back, IT-6 credits were not claimed by the taxpayer, and intercompany eliminations. The apportionment percentage was recalculated to a lesser percentage, which also reduced the adjusted gross income.

I. **Tax Administration** –Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for failure to include interest income that was adjusted in a prior audit.

Taxpayer, in a letter dated October 22, 1999 protested the penalties assessed because it timely filed the returns in good faith with no frivolous positions taken and the returns were filed while an audit was ongoing, thus unaware of adjustments that needed to be made to the returns.

Taxpayer failed to make corrections based upon a prior audit completed on September 9, 1994; therefore, the penalty may not be waived.

FINDING

Taxpayer's protest is denied.